

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

NOVEMBER 13, 2007

President Bob Foster called the meeting to order at 10:00 A.M. in Conference Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Bob Foster, President, Wendy Hellum, Vice President, Dennis Hamilton, Steve Murphy, and David Murphy. Board members absent were Ruthie Reynolds and Ralph Buckner.

Staff members present were Robert Gribble, Executive Director, Adrian Chick, Staff Attorney, and Jimmy Gossett, Administrative Assistant.

APPROVAL OF MINUTES:

A motion was made by Mr. Steve Murphy to approve the minutes of the October 9, 2007, Board Meeting.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

APPROVAL OF INDIVIDUAL LICENSES:

Upon motion, based upon the application record, the following individual was approved for licensure.

Christy Leann Roberts
Fayetteville, TN

Funeral Director

APPROVAL OF ESTABLISHMENT LICENSES:

Upon motion, based upon the application records, the following establishments were approved for licensure.

Changes of Name and Ownership

New Ownership: Corporation

Mountain Empire Cremation Service
Elizabethton, TN

Changes of Name and Ownership

New Ownership: Corporation

**Allen Funeral Home, Inc.
Morristown, TN**

**LEGAL REPORT:
ADRIAN CHICK, STAFF ATTORNEY**

1. Case No.: L07-FUN-RBS-2007081401

An inspection on September 11, 2007 revealed the following violations:

- FTC Rules – Statements of Funeral Goods and Services lacked “reason for embalming”.
- FTC Rules – The high end range of caskets on General Price List does not agree with the high end range on the Casket Price List.
- FTC Rules – The low to high range of outer burial containers on the Outer Burial Container Price List does not match the prices on the General Price List.
- FTC Rules – Alternative containers and rental casket is not listed on the Casket Price List. The establishment offers direct cremation.
- FTC Rules – Price lists do not list the correct name of establishment.
- TCA 62-5-107 – The establishment does not have a copy of the license and latest inspection report for the crematory they use.

A response was requested, but not received.

Complaint History: 945593 (advertising complaint) Closed; 200706636 (alleging prices were changed) Closed with Letter of Caution.

Recommendation: Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel’s recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

2. Case No.: L07-FUN-RBS-2007071551

An inspection on July 18, 2007 revealed the following violations:

- TCA 62-5-107 – Three cremation authorization forms were inspected and none contained all information required by statute.

- Rule 0660-4-.03 – The establishment failed to notify the Board of a change in the licensed funeral director in charge.

The Respondent states that the cremation authorization forms in question have been replaced with new forms containing the required information. The change in management has been filed and a new license received.

Complaint History: 949208 (dismissed) and 200419465 (alleging the establishment was rude and unethical) closed.

Recommendation: Consent Order assessing civil penalty of \$375 and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

3. Case No.: L07-FUN-RBS-2007069771

An inspection on July 24, 2007 revealed the following violations:

- TCA 62-5-313 – No identification device found in cremated human remains.
- TCA 62-5-507 – Excessive residue was found in the retort chamber and bricks in the retort appeared to be falling from its ceiling. Also, the retort, after running for one and one-half hours, only reached a temperature of 900 degrees Fahrenheit.

The Respondent admits the violation regarding the missing identification tag and states that it is attempting to obtain funds to have the retort serviced.

Complaint History: 200502512 (Consent Order paid), 200502810 (Consent Order paid), 200603016 (FTC rules) Closed.

Recommendation: Consent Order assessing civil penalty of \$500 for failure to place identification device in cremated human remains. Letter of warning regarding the retort condition.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation and further stipulated for Counsel to send a **Cease and Desist Letter until retort condition is compliant with statutes and Board's rules.**

Seconded by Mr. David Murphy

Adopted by voice vote

4. Case No.: L07-FUN-RBS-2007069781

Same facts as above, but this complaint is against the Respondent's funeral director's license.

Recommendation: Letter of Warning.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

5. Case No.: L07-FUN-RBS-2007073121

The complainant alleges that the Respondent refuses to honor a burial policy which provides for funeral services.

The Respondent states that the policies in question are no longer serviced by this establishment, but have been assigned to another establishment.

Complaint History: Numerous, all closed.

Recommendation: Dismiss, arrangements provided by other establishment.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

6. Case No.: L07-FUN-RBS-2007071431

This complaint alleges that the Respondent has engaged in the business of funeral directing without a license on numerous occasions.

Respondent admits some of the factual allegations, but denies that it was a violation of law.

Complaint History: None for this individual respondent.

Recommendation: Authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

7. Case No.: L07-FUN-RBS-2007075541

An inspection on June 12, 2007 revealed the following violations:

- TCA 62-5-107 – A copy of the license and latest inspection report for the crematory used was not available for inspection.
- TCA 62-5-313 – A casketed body lacked a permanent identification device with the required information and no licensed funeral director.
- TCA 62-5-104 – Eight units did not adequately identify construction material.
- FTC Rules – The General Price List lacks required disclosure language.
- Rule 0660-4-.03 – The Respondent failed to notify the Board that the licensed funeral director in charge was no longer working there.
- TCA 62-5-308 – An embalmer license was not present for inspection.

Respondent states that he had no idea the individual were no longer his manager.

Complaint History: Numerous.

Recommendation: Cease and Desist Letter and Authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

8. Case No.: L07-FUN-RBS-2007071481

The Respondent in this case is a licensed funeral director. The complaint alleges that the Respondent represented himself to be the licensed funeral director in charge of a certain establishment when, in fact, he was merely signing off on the unlicensed work of that establishment. The establishment owner claims that the Respondent agreed to act as the funeral director in charge and never resigned this position.

The Respondent states that the establishment led him to believe that the Board had approved his acting as the funeral director in charge of the establishment during a "transition" period. The Respondent supplied a letter to this effect written by the establishment's owner. The Respondent states that he had only

agreed to provide certain funeral director services for a definite period of time to the establishment.

Complaint History: None.

Recommendation: Letter of Warning.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Wendy Helling

Adopted by voice vote

9. Case No.: L07-FUN-RBS-2007075571

The Respondent in this case is a licensed funeral director. The complaint alleges that the Respondent failed to notify the Board that it was no longer acting as the funeral director in charge of the establishment.

The Respondent states that the establishment led him to believe that the Board had approved his acting as the funeral director in charge of the establishment during a "transition" period. The Respondent supplied a letter to this effect written by the establishment's owner. The Respondent states that he had only agreed to provide certain funeral director services for a definite period of time to the establishment.

Complaint History: None.

Recommendation: Letter of Warning.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

10. Case No.: L07-FUN-RBS-2007050251

The complainant states that funeral arrangements for her father were made by the ex-wife and that the Respondent establishment refused to allow her to make arrangements even though she offered a copy of the divorce decree showing that her father was divorced.

The Respondent states that according to the insurance policy, the wife was listed the beneficiary. The daughter did inform the Respondent that they had been divorced, and she was asked to supply a divorce decree. She provided a divorce

petition to the Respondent, but not the decree. The Respondent asked the wife about the daughter's allegation that they were divorced, and the wife denied that assertion. After receiving the death certificate back from the health department, the daughter supplied a final decree of divorce. The Respondent assisted her in getting the death certificate amended.

Complaint History: Numerous.

Recommendation: Dismiss. The Respondent acted on the best information available at the time the death certificate was sent to the health department for filing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

11. Case No.: L07-FUN-RBS-2007071831

The complainant requested that the remains of her aunt be removed by the Respondent establishment because a burial policy had previously been purchased from it. After the Respondent had removed and embalmed the body, an arrangement conference was held to finalize funeral plans. A Statement of Funeral Goods and Services Selected was accepted and signed by both. Shortly thereafter, the complainant found another establishment that agreed to perform the funeral at a much lower cost. The complainant sought to cancel her previous agreement with the Respondent. The complainant agreed to settle the dispute by payment of \$1098.00 for embalming, removal, and time spent in consultation.

The Respondent states that it was entitled to the original contract and that it went beyond its' legal and ethical duty in order to accommodate the complainant.

Complaint History: None

Recommendation: Dismiss

A motion was made by Ms. Wendy Hellum to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

12. Case No.: L07-FUN-RBS-2007048121

An inspection on January 11, 2007 revealed that the Respondent does not have a General Price List, Casket Price List, or Outer Burial Container Price List that complies with FTC rules.

The Respondent states that the Casket Price List and Outer Burial Container Price List were not present due to water damage from a leaking roof.

Complaint History: Numerous.

Recommendation: Consent Order assessing civil penalty of \$500 against establishment and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

13. Case No.: L07-FUN-RBS-2007080451

The complainant is a funeral establishment who states that the Respondent, an establishment licensed in Tennessee, has failed to reimburse for services pursuant to a preneed contract. Subsequent to the complaint being filed, the Respondent and complainant have settled their dispute.

Recommendation: Dismiss on recommendation of legal and complainant.

A motion was made by Ms. Wendy Hellum to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

14. Case No.: L07-FUN-RBS-2007081421

An inspection on September 17, 2007 revealed that the Respondent's General Price List does not provide price for limousine when offered and does not state time for sheltering of remains.

The Respondent states that it has made the necessary corrections to its General Price List.

Complaint History: One closed (2005).

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

15. Case No.: L07-FUN-RBS-2007081471

An inspection on September 20, 2007 revealed the following:

- FTC Rules – Immediate burial price range inconsistent with Casket Price List.
- FTC Rules – General Price List lacks required disclosures for Right of Selection.
- TCA 62-5-107 – Three cremation authorization forms inspected lacked address of crematory and one form lacked telephone number of crematory.

The Respondent provided copies of updated price lists and states that it will correct the cremation authorization forms.

Complaint History: Three closed.

Recommendation: Consent Order assessing civil penalty of \$350 and authorization for hearing.

A motion was made by Mr. Dennis Hamilton to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

16. Case No.: L07-FUN-RBS-2007082181

An inspection on October 2, 2007 revealed the following violations:

- FTC Rules – Required disclosures are missing on the Statement of Funeral Goods and Services.
- FTC Rules – Individual goods and services purchased by the customer are not listed on the Statement of Funeral Goods and Services.
- FTC Rules – Reason for embalming not listed on the Statement of Funeral Goods and Services.

The Respondent states that it has made the necessary changes and apologizes.

Complaint history: Two closed.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

17. Case No.: L07-FUN-RBS-2007080971

This complaint alleges that an employee of this establishment forged an assignment of insurance benefits.

The Respondent states that it has reviewed the file and finds no evidence that its employee forged the signature. The Respondent also notes that according to the Statement of Funeral Goods and Services contract, the complainant was obligated to assign the proceeds to the establishment. Therefore, there has been no harm done to anyone except the establishment, who has not been paid for the services provided.

Complaint history: None.

Recommendation: Dismiss.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Wendy Hellum

Adopted by voice vote

18. Case No.: L07-FUN-RBS-2007080961

The complainant alleges that the Respondent funeral director forged his signature on an assignment of insurance proceeds that would have assigned the proceeds to the establishment.

The Respondent denies that he forged the document, and believes the complainant signed the document but made this allegation to keep from having to pay for services. The signature in question does not appear to be that of the respondent or the complainant.

Complaint History: None

Recommendation: Dismiss due to insufficient evidence.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

19. Case No.: L06-FUN-RBS- 2006007441

This complaint was previously presented and involves a dispute between two funeral establishments for payment of services. The Board authorized a consent order of \$250 on May 6, 2006.

Complaint History: Numerous.

Recommendation: Several other complaints against the Respondent are currently being prepared for formal charges. Legal requests that this complaint be closed to help narrow the charges.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

**ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**REPORT OF LICENSES ISSUED OCTOBER 9, 2007 – NOVEMBER 12, 2007
BY EXECUTIVE DIRECTOR AS PER BOARD AUTHORITY**

Individuals

Travis Glen Austin
Cadiz, KY

Funeral Director & Embalmer

Angela Michelle Douglas
Newcomb, TN

Funeral Director & Embalmer

Traci M. Stroud-Stevens Reagan, TN	Funeral Director & Embalmer
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Matthew Anderson Terry Madison, TN	Funeral Director & Embalmer
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Elizabeth D. Harding Knoxville, TN	Funeral Director & Embalmer Reciprocity – New York
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Robert Earl Fuqua Nashville, TN	Funeral Director & Embalmer Reapplication
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William Sanford Bass Carthage, TN	Funeral Director
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Jason Chad Freeman Lake City, TN	Funeral Director
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Helen W. Swafford Pikeville, TN	Funeral Director
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Disciplinary Action Report:

The Board has previously authorized these consent orders and civil penalties. The Consent Orders have been signed and the civil penalties paid by the respondents. The Executive Director requests the Board's acceptance of the following consent orders.

Complaint No. 2007054551

Violation: Engaging in the practice of embalming while license was in an expired status

Action: \$500 Civil Penalty

Complaint No. 2007075341

Violation: License of an embalmer was not available for inspection, failure to affix a permanent identification device to the deceased human remains and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$500 Civil Penalty

Complaint No. 2007074871

Violation: FTC Rules and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$250 Civil Penalty

Complaint No. 2007075061

Violation: FTC Rules and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$250 Civil Penalty

Complaint No. 2007075031

Violation: FTC Rules and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$250 Civil Penalty

Complaint No. 2007074951

Violation: FTC Rules

Action: \$250 Civil Penalty

Complaint No. 2007071521

Violation: Failure to affix a permanent identification device to the deceased human remains

Action: \$250 Civil Penalty

Complaint No. 2007074981

Violation: FTC Rules, license of an embalmer was not available for inspection, failure to affix a permanent identification device to the deceased human remains and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$1000 Civil Penalty

Complaint No. 2007071491

Violation: FTC Rules

Action: \$250 Civil Penalty

Complaint No. 2007054361

Violation: Conducting funeral ceremony in Tennessee without a Tennessee licensed funeral director present and in charge of services

Action: \$500 Civil Penalty

Complaint No. 2007054461

Violation: FTC Rules, failure to affix a permanent identification device to the deceased human remains and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$500 Civil Penalty

Complaint No. 2007071511

Violation: FTC Rules, cremation authorization form did not contain the funeral director's signature and failure to maintain a copy of current license and latest inspection report for the crematory that the funeral home uses

Action: \$375 Civil Penalty

Complaint No. 2007074911

Violation: Consumer double charged for same service and cremation authorization form not retained in files

Action: \$250 Civil Penalty

Complaint No. 2007081371

Violation: Establishment allowed an unlicensed individual to act as a funeral director and cremation authorization form was not signed by a licensed funeral director

Action: \$750 Civil Penalty

A motion was made by Mr. Steve Murphy to approve the Executive Director's request for the Board's acceptance of the above listed Consent Orders.

Seconded by Mr. David Murphy

Adopted by voice vote

Open Complaint Report:

As of November 9, 2007, there were 89 open complaints.

Election of Board Officers for 2008:

President:

Mr. David Murphy made a motion to elect Mr. Steve Murphy as President.

Ms. Wendy Helling seconded the motion.

By voice vote, Mr. Steve Murphy was elected President of the Board for 2008.

Vice President:

Mr. Dennis Hamilton made a motion to elect Mr. David Murphy as Vice President.

Mr. Steve Murphy seconded the motion.

By voice vote, Mr. David Murphy was elected Vice President of the Board for 2008.

ADJOURN:

A motion was made by Mr. David Murphy to adjourn.

Seconded by Mr. Steve Murphy

Adopted by voice vote

There being no further business, the meeting was adjourned by President Foster at 10:40 A.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director